

**NATIONAL PARKS CONSERVATION ASSOCIATION** October 3, 2002, Page 1

*Protecting Parks for Future Generations*

*Statement of  
Steven Bosak  
Associate Director of Visitor Experience Programs  
Of the  
National Parks and Conservation Association  
Before the  
Senate Subcommittee on Aviation*

*U.S. Senate  
On  
Air Tour Management and our National Parks*

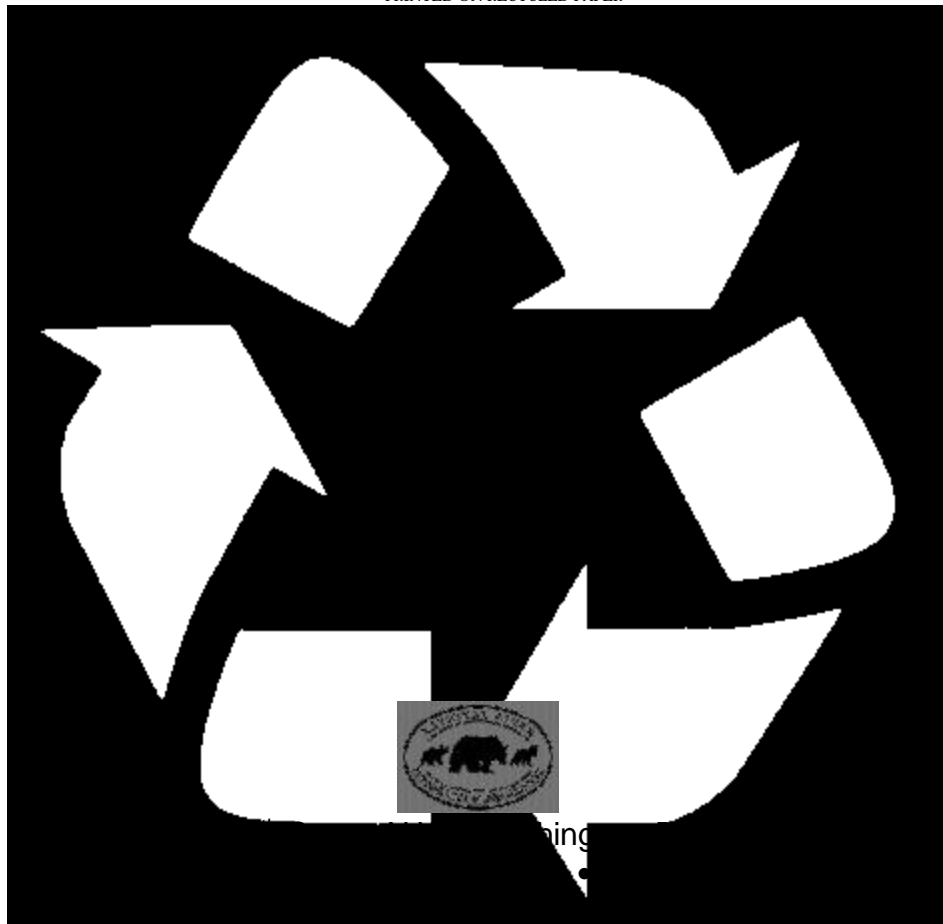
*October 3, 2002*



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Mr. Chairman and members of the Committee, thank you for the opportunity to present the views of the National Parks Conservation Association (NPCA) on the management of tour aircraft flying over the national parks and the delay in implementing both the National Parks Overflight Act of 1987 (PL 100-91) and the National Parks Air Tour Management Act of 2000 (106-181). My name is Steven Bosak. I am the Associate Director for Visitor Experience programs for NPCA, America's only nonprofit citizen organization dedicated solely to protecting, preserving and enhancing the National Park System.

I want to thank the Chairman and Senator McCain for your commitment to this important issue. This subcommittee has contributed greatly to our country's national park legacy by protecting the natural quiet and natural soundscapes in our national parks with past air tour overflight legislation.

### **Significance of Air Tour Legislation to National Parks**

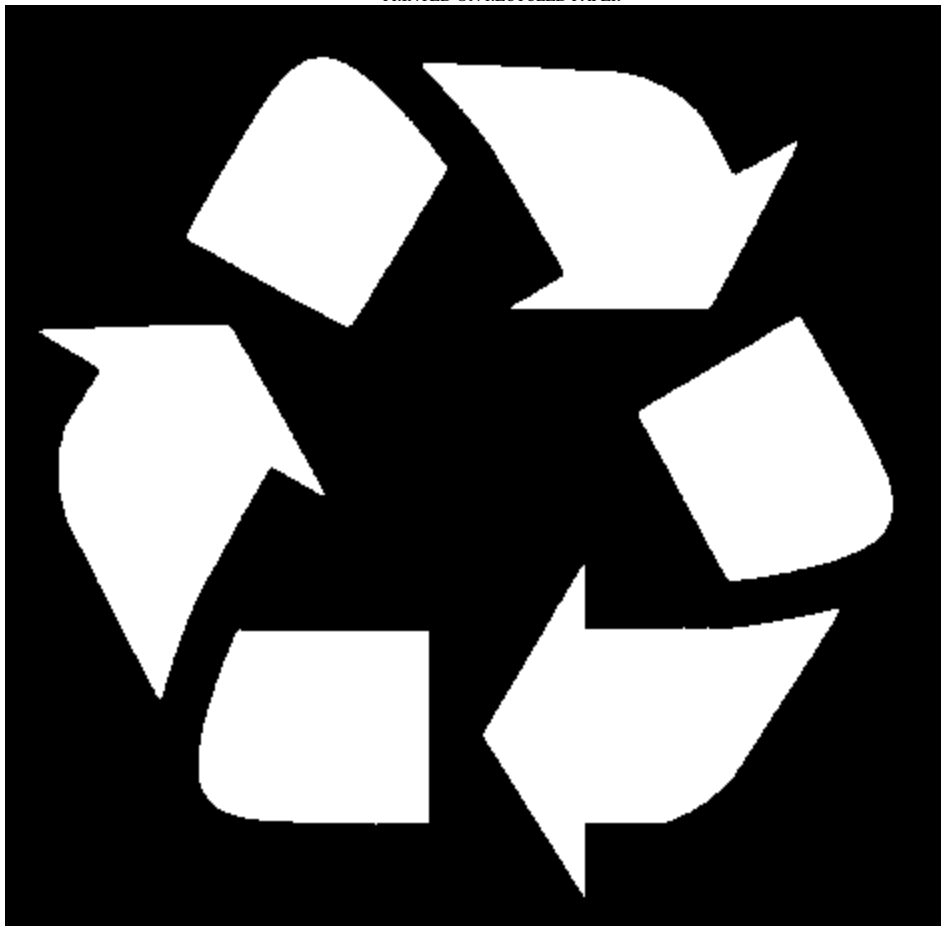
Congress elevated two basic principles when it passed the Parks Overflight Act of 1987 and the Parks Air Tour Management Act of 2000. First: The sounds of nature are among the inherent components of the "scenery and the natural and the historic and the wild life therein," which form the core of the National Park Service's conservation mandate. Second: Within units of the National Park System, natural quiet – the opportunity to experience natural sounds – shall be preserved "unimpaired for the enjoyment of future



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generations.” These two principles embody the most fundamental purposes of the National Park Service Organic Act of 1916, and reflect the Act’s enduring importance for the world today. Taken together, these two Acts both enable and require the Park Service to exercise some regulatory authority, with the assistance of the Federal Aviation Administration, over the commercial air tours that fly over national parks. Both Acts broke new ground in ordering a high level of agency cooperation. Unfortunately, this cooperation has been difficult for both agencies, resulting in delays in implementing the intent of Congress.

### **Cause and Impacts of Delay**

As this committee is well aware, it has been more than 15 years since the passage of the Parks Overflight Act, which specifically directed the Park Service and FAA to provide for the “substantial restoration of natural quiet” in the Grand Canyon. Yet the excruciatingly slow pace at which the Overflights Act and the Air Tour Management Act are being implemented contributes to the frustration and uncertainty for park visitors and air tour operators alike. While the Park Service bears some blame for the lack of progress, it has been our experience that the FAA has been reluctant to follow the intent of these laws and apply the appropriate resources to complete rulemakings in a timely and efficient manner.

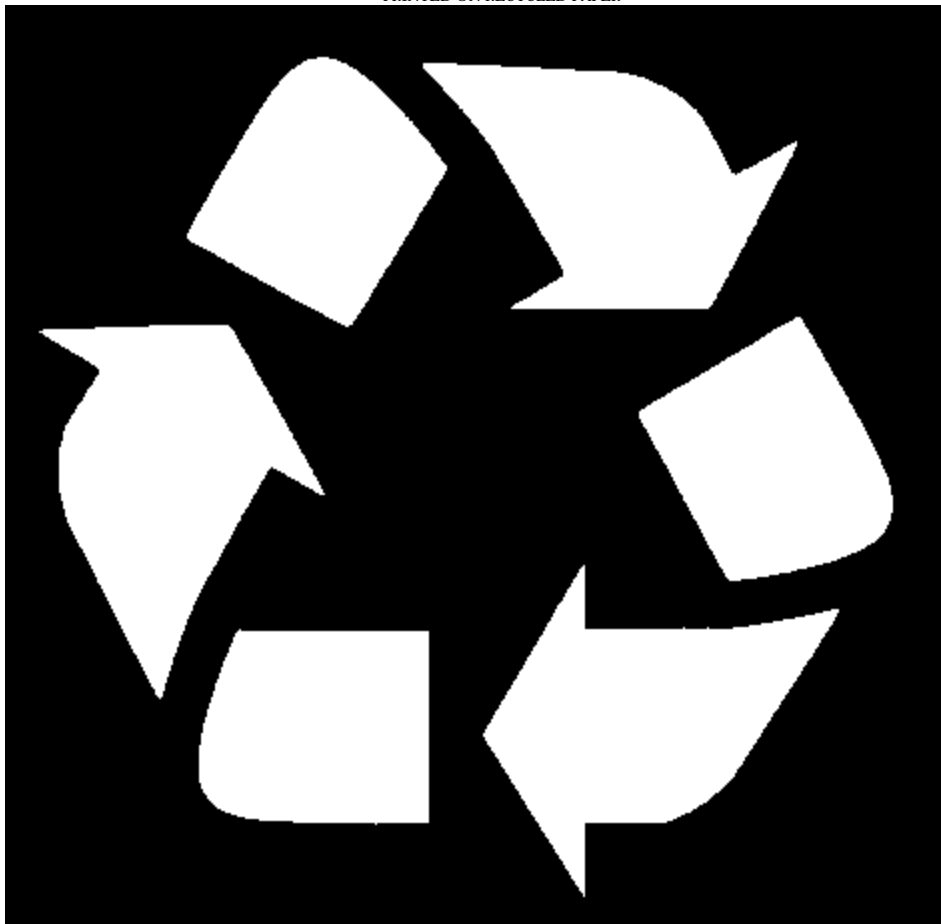
It has been two and a half years since Congress passed the Air Tour Management Act, but the FAA has yet to



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release the final rule that would complete the definition of regulated airspace over national parks. This is a non-controversial rule that mostly enacts language already recommended by the National Parks Overflight Working Group, a federally convened advisory group made up of representatives from the air tour industry, the conservation community, Native American tribal governments, and the Park Service and FAA. NPCA has submitted comments to the FAA in support of the draft language (U.S. D.O.T. Docket No. FAA-2001-8690).

Our concern over the delayed rule is intensified by what we have observed around the country over the past few years: That air tour operations over national parks are increasing, and in some cases new air tour operations have sprung up over parks where no air tours previously operated. Parks such as Yellowstone and Grand Teton are now facing new air tour operations. Air tour overflights continue to be a problem over parks such as Hawaii Volcanoes, Bryce Canyon in Utah, and Glacier National Park in Montana. These parks are all on the Park Service's priority list of units requiring air tour management plans.

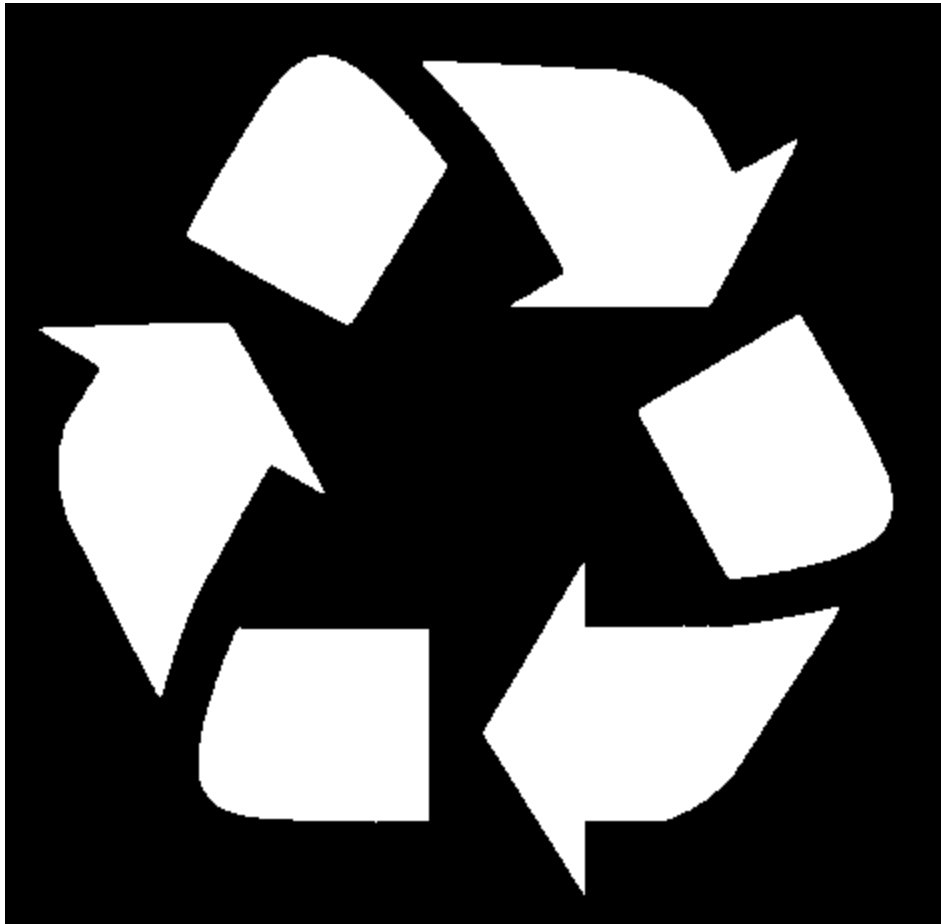
An NPCA survey of national park superintendents in 1998 found that 55 park units reported adverse impacts from air tour overflights. That figure represents an increase in park air tour overflights from surveys we conducted in 1994 and 1996.<sup>1</sup> As you recall, the Parks Air Tour Management Act sought to avoid the



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unmanaged growth of the air tour industry over parks and specifically forbade the start of new operations over any park until the park had completed an air tour management plan. The FAA, however, will not commence the air tour management planning process in any park until the delayed "airspace" rule is finalized.

Attached to my testimony is additional testimony I wish to submit for the record on behalf of citizens living near some of these affected national parks. These comments I am submitting attest to the frustration felt in local communities by those who are seeking to reduce the impact of air tour overflights on park visitors and park neighbors.

### **Meeting Congressional Intent**

To prevent further delays in the implementation of both Acts, Congress must keep a close watch on both agencies, with a keen eye on which agency determines the standards and measurements used to assess air tour noise impacts on the parks. The intent of Congress seemed clear enough. In Section 3(b)(1) and (b)(2) of P.L. 100-91, Congress required FAA to 'issue a final plan for management of air traffic in the air space above the Grand Canyon that implements the recommendations of the Secretary (of Interior) without change unless

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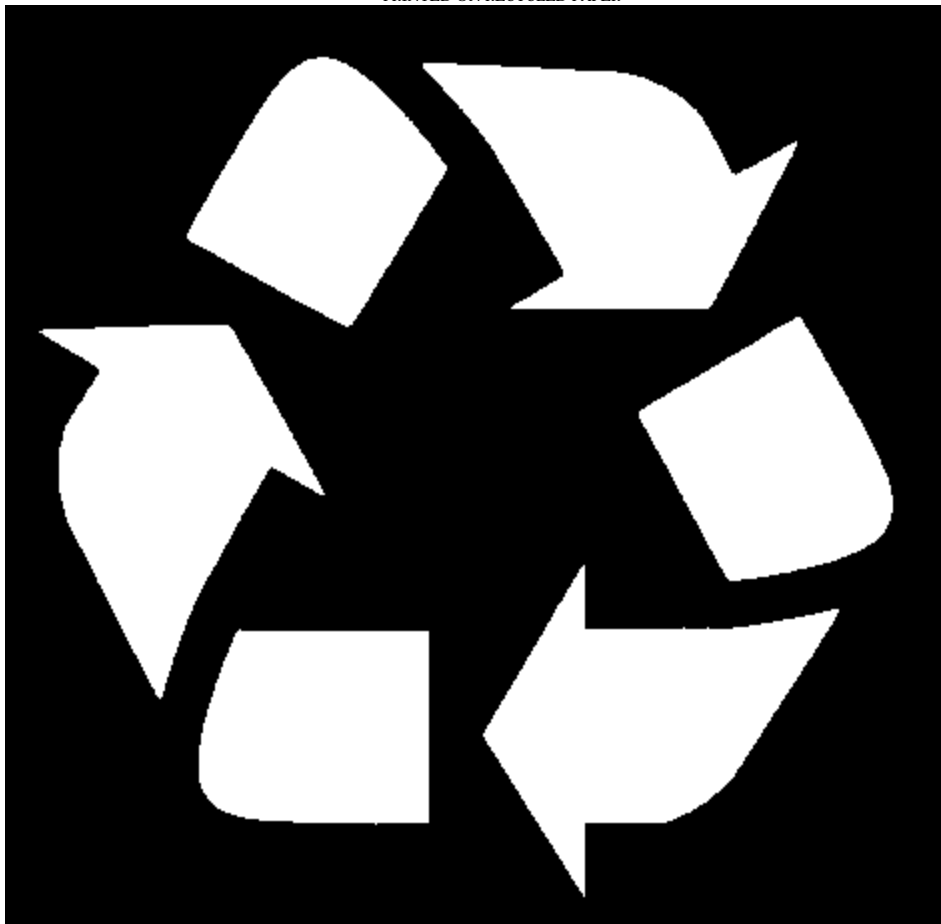
<sup>1</sup> A National Park Service survey of its units for its 1994 report to Congress of the Effects of Aircraft Overflights on the National Park System found that 42 park units experienced commercial air tour activity.



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FAA determines that those recommendations would adversely affect aviation safety.’ But still the question regarding which agency determines impacts has dogged the entire process. The conservation community took the issue to court to provide clarification. The recent decision in U.S. Air Tour Association v. FAA by the U.S. Court of Appeals for the D.C. Circuit should provide clarity to both agencies and motivation for finishing the job expeditiously.

That decision directed the FAA to give deference to the Park Service as it reconsiders its position on the standard for assessing restoration of natural quiet and the measurement of aviation noise in the Grand Canyon. Among other things, the court called upon the agencies to:

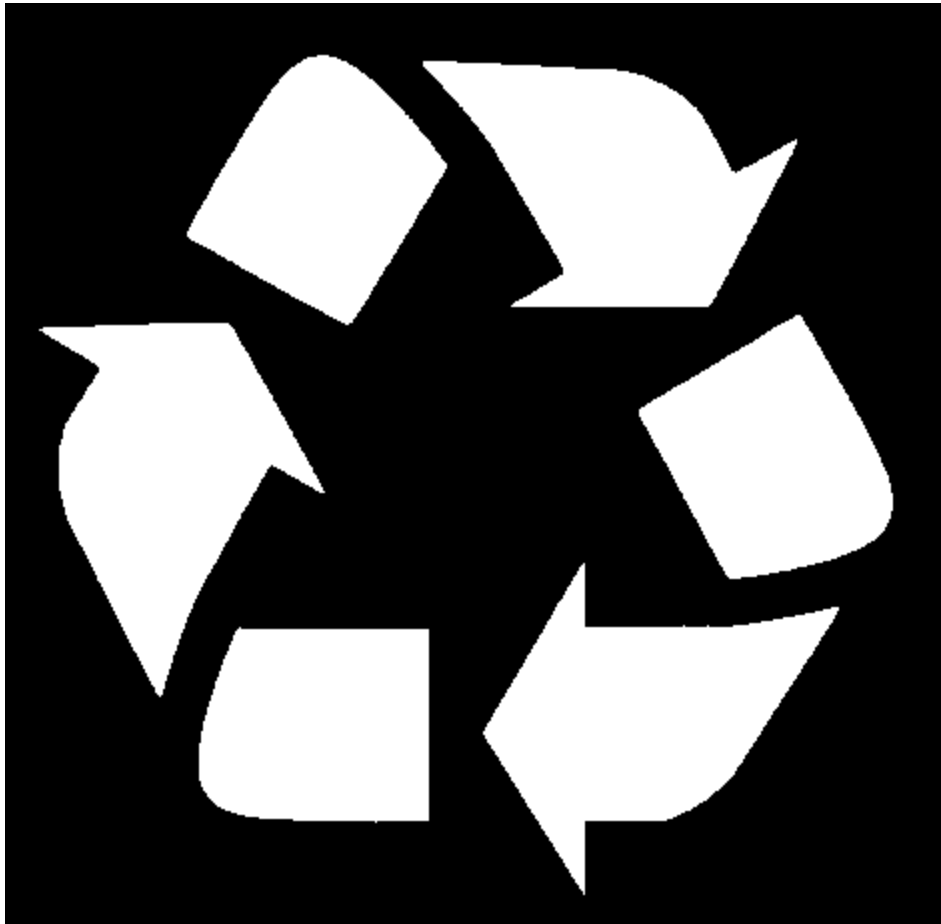
- Apply the “Peak Day” standard in place of the “Average Day” standard for assessing progress towards substantial restoration of natural quiet in the Grand Canyon. Judge Garland noted in the court decision that “People do not visit the Park on ‘average’ days, nor do they stay long enough to benefit from averaging noise over an entire year. For the typical visitor, who visits the Grand Canyon for just a few days during the peak summer season, the fact that the Park is quiet ‘on average’ is cold comfort.”
- Measure all aviation noise sources above the Grand Canyon when assessing progress towards substantial



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restoration of natural quiet.

Park visitors want to see progress at the Grand Canyon; we want the Park Service to realize the goal of “substantial restoration of natural quiet” to the Canyon by 2008. We also want to see the air tour industry receive genuine incentives so that they can see a future in cooperating fully in a program that enables their clients to enjoy the views from above while providing the national park visitor on the ground the opportunity to experience the undisturbed natural sounds of the Canyon. Those incentives, though – be they in the form of so-called “quiet technology” or “noise efficiency” regulations – must be fair and reasonable not just to air tour operators, but also to the national park visitors who visit the front and backcountry of national parks with the expectation of experiencing undisturbed natural sounds.

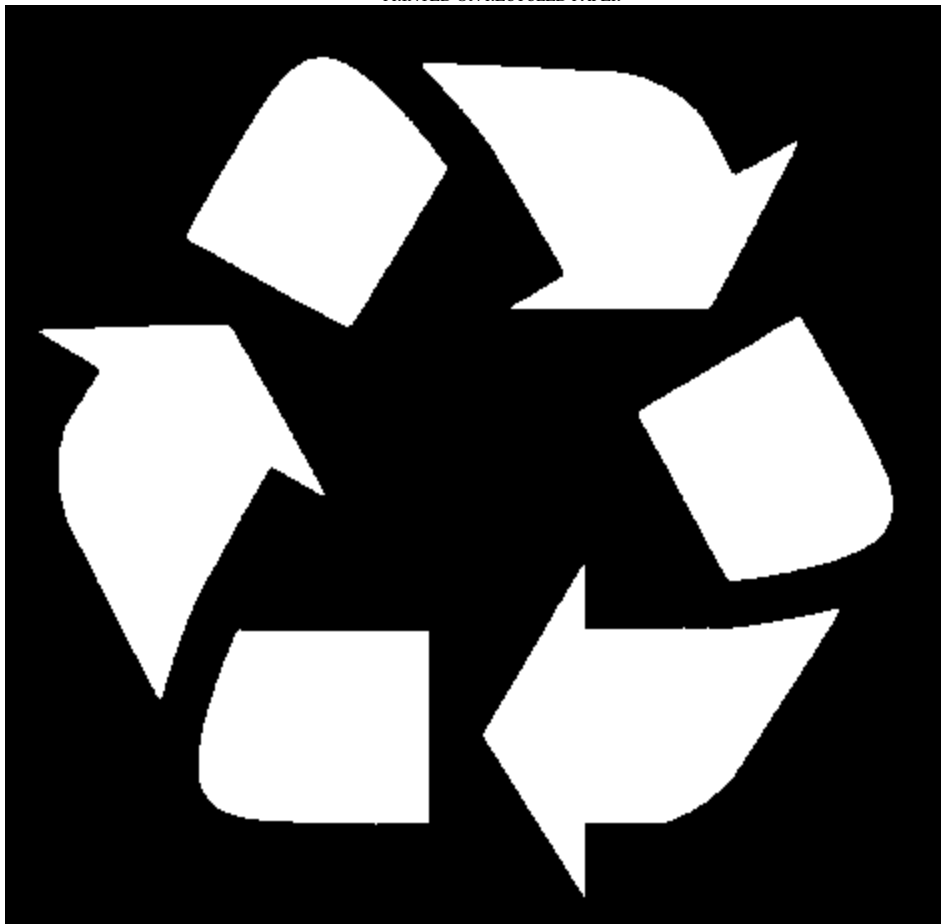
NPCA and its members also want to see forward movement on the implementation of the National Parks Air Tour Management Act. We respectfully ask the committee to help ensure that neither agency repeats the mistakes of the past. Air tour management must receive the appropriate level of priority and allocation of resources so that we can deal proactively with air tour management nationwide, as Congress intended. We respectfully ask the subcommittee to help ensure that the following goals are met to assist in the preservation of natural quiet in our national parks and restoration of natural quiet to the Grand Canyon:



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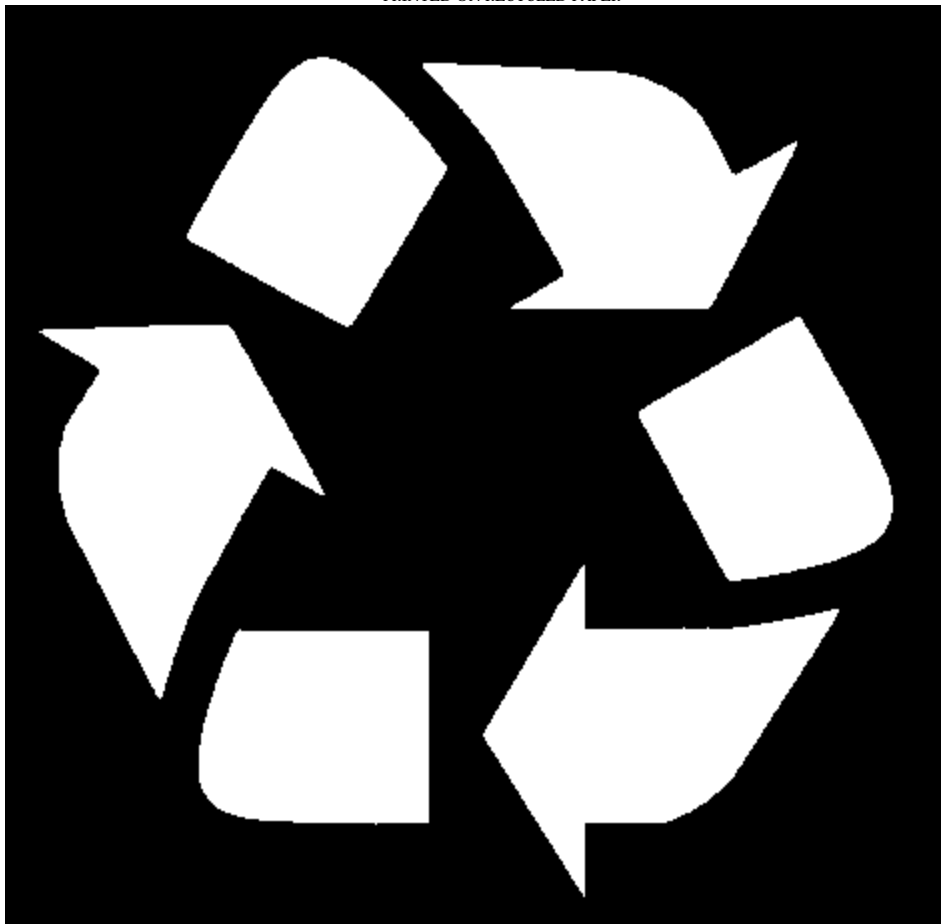
- **Release of the National Parks Air Tour Management final rule:** The FAA must release this rule as soon as possible; a two-year delay is unacceptable. The rule will define the air space over parks regulated by the law and will allow the agencies to commence the air tour management planning processes at parks impacted by air tours. The committee should demand explanations from both agencies for the cause of the delay.
- **Recognize the Park Service's authority to determine air tour impacts:** During the development of air tour management plans and noise management plans, the Park Service must be the agency that determines air tour impacts to natural quiet in national parks and designates the desired solutions for eliminating or mitigating unwanted air tour impacts. The FAA must focus on ensuring the safety of air tour operations over national parks. The Court of Appeals has ruled on this point and both agencies should comply with their ruling.
- **Develop a Noise Management Plan for Grand Canyon National Park:** The Park Service, with FAA assistance, must develop a Noise Management Plan for the Grand Canyon National Park. Due date was May 1, 2002.



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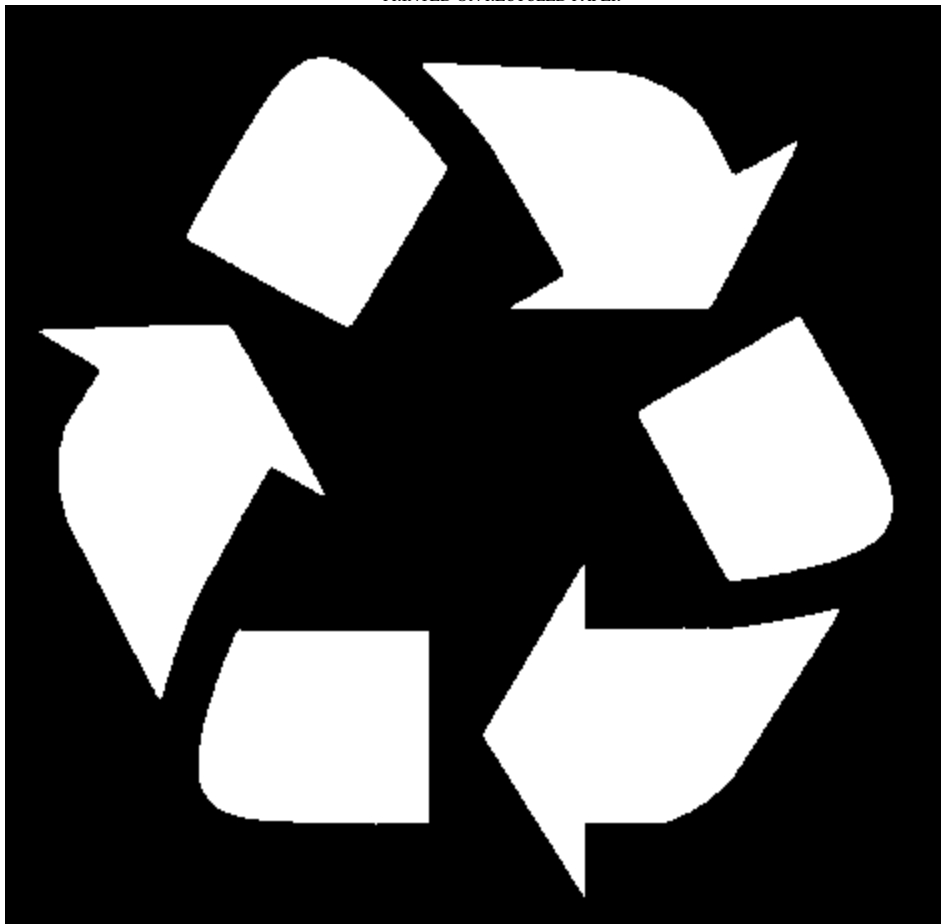
- **Analyze and release Grand Canyon air tour operations data:** The FAA must analyze and release the Grand Canyon air tour operations data that it has collected since 1998. This data will enable NPS and FAA to gain a better understanding of the current air tour industry behavior and take appropriate management and noise mitigation actions.
- **Issue a Quiet Technology Rule:** The FAA and the NPS must develop and release the “Quiet aircraft technology and noise efficiency” final rule that would give air tour operators incentives for using more quiet aircraft over national parks; this rule could include incentives for using higher capacity aircraft for fewer flights.
- **Release of noise model validation report and conclusion:** This report would provide feedback on the effectiveness of the current noise impact model and help the agencies determine progress toward “substantial restoration of natural quiet”. The due date passed in spring of 2000. NPS received the final report from Contractor (HMMH) on June 5, 2002 but has not released its conclusions to the public.



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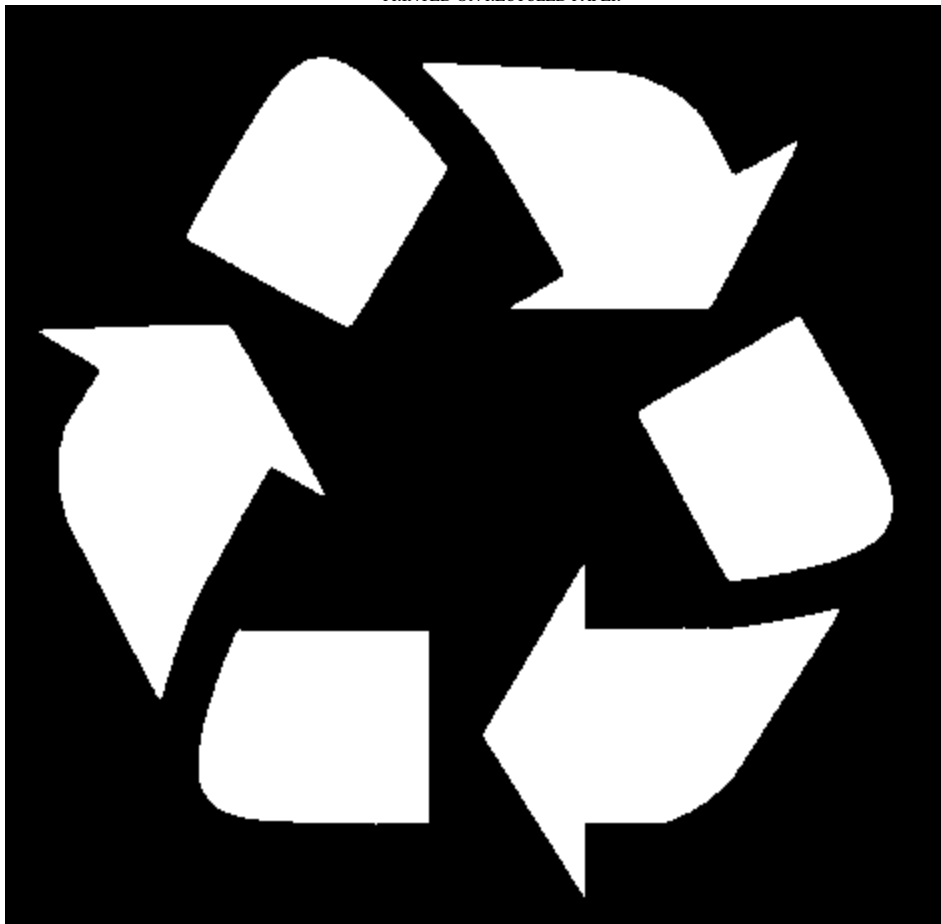
- **Collect all current and past due air tour use fees at Grand Canyon and other air tour use fee parks:** Some air tour companies have not been paying the air tour passenger fees to NPS as required by law. NPS is entitled to these revenues. Those air tour operators who are unwilling to pay the appropriate fees to NPS should be denied the privilege of flying over the parks requiring air tour fees. The Park Service does not allow park visitors to enter parks requiring gate fees without payment; the same standard should apply to air tour passengers if the operators wish their clients to be considered “park visitors.”
- **Retire the allocations over the Grand Canyon for air tour operators who cease tour operations:** The Park Service and FAA can pick the “low hanging fruit” in restoring natural quiet by retiring allocations of air tour operators who go out of business.
- **Substantially restore natural quiet at Grand Canyon National Park:** The Park Service and the FAA should meet the April 22, 2008 target date committed to by both agencies in the Final Rule preamble of the FAA on Dec. 31, 1996. The “substantial restoration of natural quiet” must meet the Park Service definition that says “50% or more of the park achieve ‘natural quiet’ (i.e. no aircraft audible) for 75-100 percent of the day.” Unless the definite steps as outlined above are finalized, this target



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cannot be met.

In conclusion, I should emphasize that NPCA is not opposed to air tours over national parks per se; we do, however, feel that air tours over some park units are inappropriate. It is critical that the FAA and NPS fulfill the will of Congress by moving quickly on implementation and by managing these issues proactively. The FAA's role should be to ensure the safety of air tour passengers over parks and of other aircraft in the vicinity. The National Park Service must determine what impacts commercial air tours have on national park visitors and values. This was the intent of both laws.

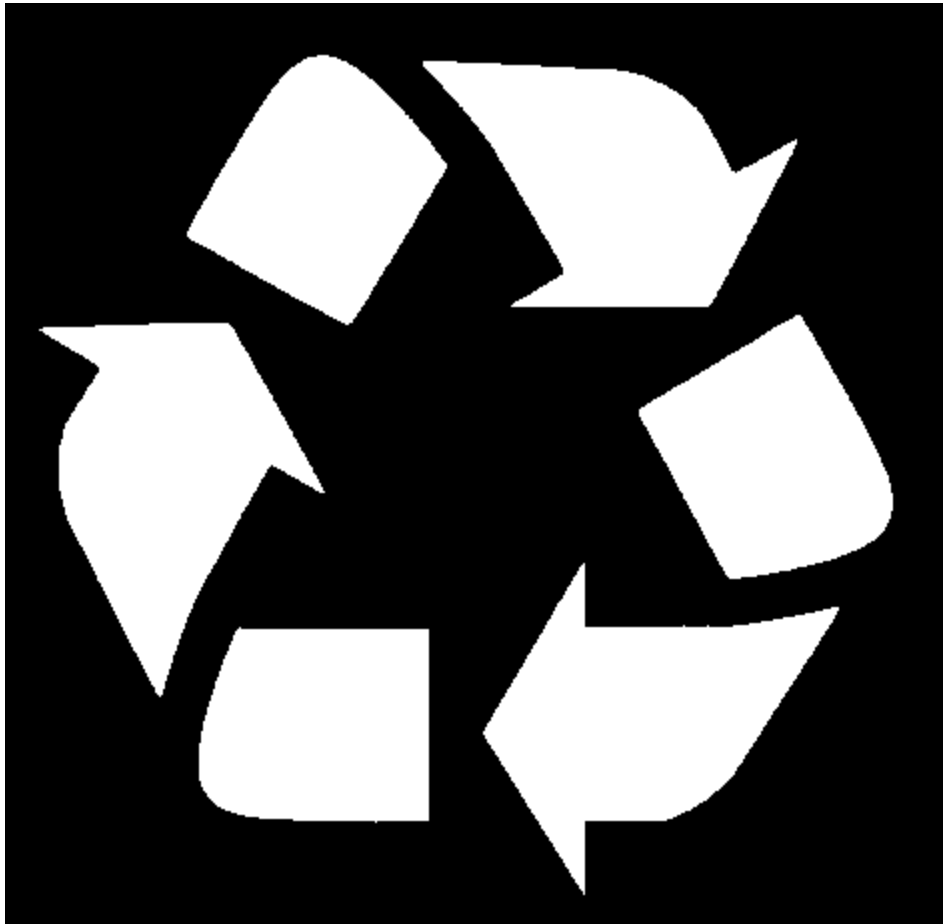
Thank you again for allowing me the opportunity to share NPCA's views on this issue.



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